



ADMINISTRATIVE PROCEDURES

SECTION: 300 – Human Resources		PROCEDURE #: 301 - A
TITLE: Workplace Discrimination, Harassment, Sexual Assault, and Retaliation Prevention		IMPLEMENTS POLICY #: 301
SPONSORING DEPARTMENT/DIV: Support Services/Human Resources		
EFFECTIVE DATE: 7-11-2017	REVIEWED: 7-2020	REVISED: 8-6-2020

OBJECTIVE: To establish procedures to ensure the work environment is free of, all forms of discrimination, workplace harassment, sexual assault, or retaliation and to define procedures for reporting and investigating complaints of discrimination and workplace harassment, including sexual assault, or retaliation.

AUTHORITY: The authority to issue or revise these procedures is reserved to the County Administrator. The County Administrator may authorize exceptions to these procedures when deemed appropriate.

PROCEDURES:

1. Preventative Measures:

All County elected public officials, Department directors, managers and supervisors are expected to create and maintain a work environment that is fair, civil, positive, respectful of each person’s dignity, and free of all forms of discrimination, workplace harassment, sexual assault, and retaliation. The following are examples of preventative measures:

- 1.1. Inform Staff that workplace discrimination, harassment, sexual assault, or retaliation is not tolerated and that any sustained violation of the policy will result in corrective or disciplinary action, up to and including termination.
- 1.2. Inform Staff of the expectation to report incidents that are or could be perceived as discrimination, workplace harassment, sexual assault, or retaliation.
- 1.3. Immediately address any complaints of discrimination, workplace harassment, sexual assault, or retaliation.
- 1.4. Communicate and demonstrate the importance of a respectful work environment to Staff on a regular basis.
- 1.5. Establish and promote a professional and respectful work environment.
- 1.6. Be familiar with and communicate County and Departmental behavior and conduct expectations to Staff.

1.7. Participate in and encourage Staff to attend training sessions related to workplace discrimination, harassment, sexual assault, and retaliation prevention.

2. Reporting and Response Procedures:

2.1. Any employee, job applicant, intern, volunteer, elected public official, or person providing services pursuant to a contract, who believes he/she is a victim of discrimination, harassment, sexual assault, or retaliation should immediately contact one of the following receiving officials:

- Department Director or Division Manager
- Chief Human Resources Officer or his/her designee
- County Administrator or his/her designee

2.2. Once a receiving official has been contacted, they will contact the Human Resources (HR) Division as soon as possible. The Human Resources Division will provide a Complaint Intake Form to the complainant. This form should be completed, signed, and returned to the Human Resources Division within five (5) calendar days of receipt. The Human Resources Division will also process any oral complaints it may receive.

2.3. Upon receipt of a complaint, the Human Resources Division will review the reported information and meet with the employee filing the complaint to determine if it alleges a violation of the Workplace Discrimination, Harassment, Sexual Assault, and Retaliation Prevention Policy. If so, they will contact the alleged violator(s) at an appropriate time to inform them of the basis of the complaint and provide them with an opportunity to respond. The response of the alleged violator(s) must be submitted in writing, addressed to the Chief Human Resources Officer, and be received by the Human Resources Division within ten (10) calendar days after being notified of the allegations set forth in the complaint. Concurrently, a formal investigation of the complaint shall be commenced. The Human Resources Division may direct the alleged violator(s) and any witness(es) to submit to an interview.

2.4. If the Human Resources Division determines that immediate action should be taken to separate the involved personnel, or to avoid any type of actual or potentially volatile situation, the County Administrator or his/her designee shall be notified immediately.

2.5. The County Administrator or his/her designee is authorized to take appropriate actions deemed necessary to separate involved personnel and/or to deescalate any type of potentially volatile situation, including, but not limited to, placing employees on administrative leave.

3. Investigation, Report, and Findings:

3.1. The Human Resources Division may elect to investigate the formal complaint itself; refer the complaint to the Office of County Counsel; or hire an outside firm or consultant to investigate.

- 3.2. Investigations may include interviews with the complainant, individuals who are accused, and any other persons determined to have relevant knowledge concerning the complaint. Documents, photos, electronic communication, or other tangible information available will also be considered.
 - 3.3. Factual information gathered during the investigation will be reviewed to determine whether the alleged conduct constitutes workplace discrimination, harassment, sexual assault, or retaliation. Consideration will be given to all factual information, credibility determinations, and the totality of the circumstances and the context in which the alleged incident(s) occurred.
 - 3.4. Upon completion of the investigation, the results will be documented. A determination as to whether workplace discrimination, harassment, sexual assault, or retaliation has occurred will be reported to appropriate persons including the complainant, the alleged violator(s), County Counsel, and the Appointing Authority and potentially the County Administrator when appropriate. The Human Resources Division may also meet with the affected parties to facilitate the return of a professional working environment to the workplace.
 - 3.5. All records related to complaints and investigations of workplace harassment, discrimination, sexual assault, or retaliation shall be maintained by the Human Resources Division in accordance with the retention schedules provided for in Oregon Secretary of State's archive rules for counties.
4. Remedial or Disciplinary Action and Follow up:
- 4.1. If workplace discrimination, harassment, sexual assault, or retaliation is determined to have occurred, the Chief Human Resources Officer shall recommend that the Appointing Authority take prompt and effective remedial action against the offender, including, but not limited to, formal disciplinary action.
 - 4.2. Disciplinary or remedial action may also be taken against any manager or supervisor who condones or ignores potential violations of the workplace discrimination, harassment, sexual assault and retaliation prevention policy or who otherwise fails to take appropriate action to enforce this policy.
 - 4.3. The Chief Human Resources Officer shall advise the County Administrator or his/her designee and County Counsel of any recommendation for disciplinary or remedial action against any manager or supervisor.
 - 4.4. Any disciplinary action taken will be commensurate with the severity of the offense, up to and including termination from employment.
 - 4.5. If discipline or remedial action is imposed, the nature and extent of the discipline or remedial action shall not be divulged to the complainant.
 - 4.6. Following the receipt of a report of workplace harassment, discrimination, sexual assault, or retaliation, the Chief Human Resources Officer or their designee shall follow up with the alleged victim once every three (3) months for a one-year period to determine whether the alleged harassment has stopped or if the victim has

experienced retaliation. The Chief Human Resources Officer or their designee shall inform the victim that such follow up will continue until completion, unless the victim objects to such follow up in writing.

5. Confidentiality:

- 5.1. Confidentiality will be maintained to the fullest extent possible in accordance with applicable Federal, State, and local law and information will be shared only with those having a business need to know.
- 5.2. Any individual interviewed during the course of an investigation is prohibited from discussing the substance of the review with other individuals besides his/her union or legal representative, spouse, domestic partner or spiritual advisor unless otherwise directed by a supervisor or the Chief Human Resources Officer. Any individual who discusses the content of an investigatory interview without proper authorization will be subject to discipline.
- 5.3. The County will not disclose a completed investigation report, except to the extent deemed necessary to support a disciplinary action, take remedial action, defend itself in adversarial proceedings, or to comply with the law or a court order.

6. Limitations:

- 6.1. The use of this procedure is limited to complaints related to workplace discrimination, harassment, sexual assault, or retaliation in the workplace including, but not limited to, those made on the basis of race, religion, color, national origin, disability, marital status, pregnancy, sexual orientation, sex, including gender or gender identity, or age, or use of protected leave.
- 6.2. All other complaints shall be handled in accordance with the Washington County Revised Personnel Rules, applicable County policies, and any applicable collective bargaining agreements.

7. Distribution:

The policy and these corresponding Administrative Procedures shall be disseminated to all employees, supervisors, managers, and elected officials of Washington County. Any questions, concerns, or comments related to this policy should be directed to the Chief Human Resources Officer or his/her designee.

8. Training:

The County will make available and require Staff to attend training programs that are designed to inform Staff about workplace discrimination, harassment, sexual assault, and retaliation. Participants will be provided with the definitions of workplace discrimination, harassment, sexual assault, and retaliation. They will be informed of their responsibilities for maintaining an appropriate workplace environment consistent with the requirements of the Workplace Discrimination, Harassment, Sexual Assault, and Retaliation Prevention Policy, and instructed on how to report conduct or behavior that may be in violation of that policy.

The provisions of the Workplace Discrimination, Harassment and Retaliation Prevention Policy, and these Administrative Procedures will be reviewed in the training sessions.

9. Compliance with Oregon Laws:

9.1. All County staff, including elected public officials, are advised that statute of limitations for making complaints of unlawful workplace harassment, discrimination, sexual assault, or retaliation under ORS Chapter 659A shall be no later than five (5) years from the occurrence of the unlawful conduct.

9.2. All County staff, including elected public officials, are advised that neither Washington County nor any other employer may require or coerce an employee to enter into a nondisclosure or non-disparagement agreement related to workplace harassment, discrimination, sexual assault, or retaliation prohibited under ORS Chapter 659A. Any individual claiming to be aggrieved as a result of prohibited workplace harassment, discrimination, sexual assault, or retaliation under ORS Chapter 659A may voluntarily enter into a settlement, separation, or severance agreement with an employer that contains nondisclosure or non-disparagement provisions; contains provisions that prevent the disclosure of factual information related to a claim of workplace harassment, discrimination, sexual assault or retaliation under ORS Chapter 659A; or contains a no-rehire provision prohibiting the employee from seeking reemployment with the employer. An individual who voluntarily enters into such an agreement shall have not less than seven (7) days to revoke it following execution.

9.3. All County staff, including elected public officials, are advised to document any incidents of workplace harassment, discrimination, sexual assault, or retaliation prohibited under ORS659A.030, SB726 (Oregon Workplace Fairness Act, and ORS 659A.082 and 659A.112).

9.4. All County staff, including elected public officials, are advised that a victim of workplace harassment, discrimination, sexual assault, or retaliation has the right to seek redress through the County's internal process set forth in this policy, through the Oregon Bureau of Labor and Industries complaint resolution process under ORS659A.820 to ORS 659A.865 or under any other available law whether civil or criminal.

9.4.1. Complaints involving workplace harassment, discrimination, sexual assault, or retaliation may be reported at any time within four (4) years of the occurrence of the alleged workplace harassment, discrimination, sexual assault, or retaliation, or within the applicable time limitation of the commencement of an action under ORS 659A.875, whichever is greater. Remedies may include disciplinary or remedial action as set forth in Section 4 herein.

9.4.2. Complaints involving workplace harassment, discrimination, sexual assault, or retaliation may be reported to the Oregon Bureau of Labor and Industries within one (1) year of their occurrence. Remedies may include employment, reemployment, back pay or other benefits lost due to the discriminatory practice, out of pocket

expenses having to do with the discriminatory practice and compensation for emotional distress.

9.4.3. For complaints involving workplace harassment, discrimination, sexual assault, or retaliation criminal proceedings must be filed within the applicable statutory limitation periods. Civil proceedings involving complaints of workplace harassment, discrimination, sexual assault, or retaliation must be filed within the timelines set forth in ORS 659A.875. Remedies in criminal proceedings may include conviction of the offender and restitution to the victim, as applicable. Remedies in civil proceedings may include compensatory damages, punitive damages, attorney's fees and court costs.

9.5. Any person desiring to bring a claim of workplace harassment, discrimination, sexual assault, or retaliation against a public body must provide the public body with written notice meeting the requirements of ORS 30.275 within 180 days after the alleged injury or loss.

9.6. All persons who report workplace harassment, discrimination, sexual assault, or retaliation have the right to be free from all and any forms of retaliation. All victims of workplace harassment, discrimination, sexual assault, or retaliation may voluntarily disclose information regarding an event of workplace harassment, discrimination, including sexual assault, or retaliation, that involves the victim at any time.

9.7. All County staff, including elected public officials, who are victims of workplace harassment, discrimination, sexual assault, or retaliation may access legal services or counseling /support services as follows:

9.7.1. Referrals for legal services for victims of workplace harassment, discrimination, sexual assault, or retaliation may be obtained through the Oregon State Bar Lawyer Referral Service.

9.7.2. Counseling or supportive services for victims of workplace harassment, discrimination, sexual assault, or retaliation may be obtained through Washington County's Employee Assistance Program. Contact Human Resources for more information.